



Civil Justice Committee

**January 25, 2006
9:30 AM – 12:00 PM
24 House Office Building**

Committee Action

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

(AMENDED 1/13/2006 4:29:17PM)

Amended(1)

Civil Justice Committee

Start Date and Time: Wednesday, January 25, 2006 09:30 am

End Date and Time: Wednesday, January 25, 2006 12:00 pm

Location: 24 HOB

Duration: 2.50 hrs

Consideration of the following bill(s):

HB 191 Guardianship by Bogdanoff

HB 193 Public Records Exemptions by Bogdanoff

HB 221 Paternity by Richardson

HB 391 Community Associations by Domino

HB 543 Condominiums by Goodlette

NOTICE FINALIZED on 01/13/2006 16:29 by Hay.Tracey

COMMITTEE MEETING REPORT

Civil Justice Committee

1/25/2006 9:30:00AM

Location: 24 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Mark Mahon (Chair)	X		
Dean Cannon			X
Marti Coley	X		
Carl Domino	X		
Arthenia Joyner	X		
Irving Slosberg	X		
John Stargel	X		
Totals:	6	0	1

COMMITTEE MEETING REPORT

Civil Justice Committee

1/25/2006 9:30:00AM

Location: 24 HOB

HB 191 : Guardianship

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon			X		
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Appearances:

Guardianship

Martha Edenfield (Lobbyist) - Proponent

The Real Property Probate & Trust

P. O. Box 10095

Tallahassee FL 32302

Phone: 850-222-3533

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. HB 0191

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A W/O 1

Council/Committee hearing bill: Civil Justice Committee

Representative(s) Bogdanoff offered the following:

Amendment

Remove line(s) 59-61 and insert:
the trust becomes irrevocable, except this section does not
prohibit such action by the guardian of the property of an
incapacitated settlor.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. HB 0191

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A / 2
wp

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Bogdanoff offered the following:

Amendment

Remove line(s) 164-219 and insert:

(b) When an order determines that a person is incapable of exercising delegable rights, the court must consider and find whether there is an alternative to guardianship which will sufficiently address the problems of the incapacitated person. A guardian must be appointed to exercise the incapacitated person's delegable rights unless the court finds there is an alternative. A guardian may not be appointed if the court finds there is an alternative to guardianship which will sufficiently address the problems of the incapacitated person ~~In any order declaring a person incapacitated the court must find that alternatives to guardianship were considered and that no alternative to guardianship will sufficiently address the problems of the ward.~~

(f) Upon the filing of a verified statement by an interested person stating:

1. That he or she has a good faith belief that the alleged incapacitated person's trust, trust amendment, or durable power

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

23 of attorney is invalid; and

24 2. A reasonable factual basis for that belief,

25
26 the trust, trust amendment, or durable power of attorney shall
27 not be deemed to be an alternative to the appointment of a
28 guardian. The appointment of a guardian does not limit the
29 court's power to determine that certain authority granted by a
30 durable power of attorney is to remain exercisable by the
31 attorney in fact ~~When an order is entered which determines that~~
32 ~~a person is incapable of exercising delegable rights, a guardian~~
33 ~~must be appointed to exercise those rights.~~

34 Section 5. Subsection (11) of section 744.441, Florida
35 Statutes, is amended to read:

36 744.441 Powers of guardian upon court approval.--After
37 obtaining approval of the court pursuant to a petition for
38 authorization to act, a plenary guardian of the property, or a
39 limited guardian of the property within the powers granted by
40 the order appointing the guardian or an approved annual or
41 amended guardianship report, may:

42 (11) Prosecute or defend claims or proceedings in any
43 jurisdiction for the protection of the estate and of the
44 guardian in the performance of his or her duties. Before
45 authorizing a guardian to bring an action described in s.
46 737.2065, the court shall first find that the action appears to
47 be in the ward's best interests during the ward's probable
48 lifetime. If the court denies a request that a guardian be
49 authorized to bring an action described in s. 737.2065, the
50 court shall review the continued need for a guardian and the
51 extent of the need for delegation of the ward's rights.

52 Section 6. Section 744.462, Florida Statutes, is created
53 to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

54 744.462 Determination regarding alternatives to
55 guardianship.--Any judicial determination concerning the
56 validity of the ward's durable power of attorney, trust, or
57 trust amendment shall be promptly reported in the guardianship
58 proceeding by the guardian of the property. If the instrument
59 has been judicially determined to be valid or if, after the
60 appointment of a guardian, a petition is filed alleging that
61 there is an alternative to guardianship which will sufficiently

COMMITTEE MEETING REPORT

Civil Justice Committee

1/25/2006 9:30:00AM

Location: 24 HOB

HB 193 : Public Records Exemptions

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon			X		
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Appearances:

Guardianship

Martha Edenfield - Proponent

The Real Property Probate & Trust

P. O. Box 10095

Tallahassee FL 32302

Phone: 850-222-3533

COMMITTEE MEETING REPORT

Civil Justice Committee

1/25/2006 9:30:00AM

Location: 24 HOB

HB 221 : Paternity

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon			X		
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Appearances:

Paternity Fraud

Nadine G. Mendelsohn-Tiskind (General Public) - Proponent
309 Montevallo Court
Mobile AL 36608
Phone: 251-344-4588

Paternity Fraud

Fred Dudley (Lobbyist) - Information Only
Florida Bar/Family Law
106. E. College Ave., Suite 1200
Tallahassee FL 32301
Phone: 850-521-8013

Paternity Fraud

Teresa Rhames (General Public) - Proponent
3620 Old Federal Road
Quincy FL 32351
Phone: 850-875-4752

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. HB 221

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

W/D 1

Council/Committee hearing bill: Civil Justice Committee

Representative(s) Richardson offered the following:

Amendment

On line 34 and on lines 41 and 42, remove:

"current on all"

and insert: "paying"

COMMITTEE MEETING REPORT

Civil Justice Committee

1/25/2006 9:30:00AM

Location: 24 HOB

HB 391 : Community Associations

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon			X		
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Appearances:

Community Associations

Peter Dunbar (Lobbyist) - Information Only
Real Property, Probate & Trust Law Section
215 S. Monroe St.
Tallahassee FL 32301
Phone: 850-222-3533

Community Associations

Travis Moore (Lobbyist) - Proponent
Community Associations Institute of FL
10845 Del Prado Drive, East
Largo FL 33774
Phone: 727-421-6902

Community Associations

Jennifer J. Green (Lobbyist) - Proponent
Florida Institute of CPA's
325 W. College Ave.
Tallahassee FL 32301
Phone: 850-224-2727

Community Associations

Pat Patterson (General Public) - Information Only
Florida Institute of CPA's Board Member
2 South Roscoe Blvd.
Ponte Verda Beach FL 32082

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. HB 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A / w/o 1

Council/Committee hearing bill: Civil Justice Committee

Representative(s) Domino offered the following:

Amendment

Remove line(s) 381-389 and insert:
within the time limits sets forth in subsection (5), provide
each member with a copy of the annual financial report or a
written notice that a copy of the financial report is available
upon request at no charge to the member. Financial reports shall
be prepared as follows:

(a) An association that meets the criteria of this
paragraph shall prepare or cause to be prepared a complete set
of financial statements in accordance with generally accepted
accounting principles as adopted by the Florida Board of
Accountancy. The financial statements shall be based

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. HB 0391

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)
ADOPTED AS AMENDED — (Y/N)
ADOPTED W/O OBJECTION — (Y/N)
FAILED TO ADOPT — (Y/N)
WITHDRAWN — (Y/N)
OTHER —

A/w/o 2

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Domino offered the following:

Amendment (with directory and title amendments)

Insert between line(s) 370 and 371:

(6) BUDGETS.--

(a) The association shall prepare an annual budget which sets out the annual operating expenses. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the association, the developer, or another person. The association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The copy must be provided to the member within the time limits set forth in subsection (5).

(b) In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

22 resurfacing, regardless of the amount of deferred maintenance
23 expense or replacement cost, and for any other item for which
24 the deferred maintenance expense or replacement cost exceeds
25 \$10,000. The amount to be reserved shall be computed by means of
26 a formula which is based upon estimated remaining useful life
27 and estimated replacement cost or deferred maintenance expense
28 of each reserve item. The association may adjust replacement
29 reserve assessments annually to take into account any changes in
30 estimates or extension of the useful life of a reserve item
31 caused by deferred maintenance. This subsection does not apply
32 to an adopted budget in which the members of an association have
33 determined, by a majority vote at a duly called meeting of the
34 association, to provide no reserves or less reserves than
35 required by this subsection. However, prior to turnover of
36 control of an association by a developer to unit owners, the
37 developer may vote to waive the reserves or reduce the funding
38 of reserves for the first 2 fiscal years of the association's
39 operation, beginning with the fiscal year in which the initial
40 declaration is recorded, after which time reserves may be waived
41 or reduced only upon the vote of a majority of all nondeveloper
42 voting interests voting in person or by limited proxy at a duly
43 called meeting of the association. If a meeting of the unit
44 owners has been called to determine whether to waive or reduce
45 the funding of reserves, and no such result is achieved or a
46 quorum is not attained, the reserves as included in the budget
47 shall go into effect. After the turnover, the developer may vote
48 its voting interest to waive or reduce the funding of reserves.

49 (c) Funding formulas for reserves required by this section
50 shall be based on either a separate analysis of each of the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

51 required assets or a pooled analysis of two or more of the
52 required assets.

53 1. If the association maintains separate reserve accounts
54 for each of the required assets, the amount of the contribution
55 to each reserve account shall be the sum of the following two
56 calculations:

57 a. The total amount necessary, if any, to bring a negative
58 component balance to zero; and

59 b. The total estimated deferred maintenance expense or
60 estimated replacement cost of the reserve component less the
61 estimated balance of the reserve component as of the beginning
62 of the period for which the budget will be in effect. The
63 remainder, if greater than zero, shall be divided by the
64 estimated remaining useful life of the component. The formula
65 may be adjusted each year for changes in estimates and deferred
66 maintenance performed during the year and may consider factors
67 such as inflation and earnings on invested funds.

68 2. If the association maintains a pooled account of two or
69 more of the required reserve assets, the amount of the
70 contribution to the pooled reserve account as disclosed on the
71 proposed budget shall be not less than that required to ensure
72 that the balance on hand at the beginning of the period for
73 which the budget will go into effect plus the projected annual
74 cash inflows over the remaining estimated useful lives of all of
75 the assets that make up the reserve pool are equal to or greater
76 than the projected annual cash outflows over the remaining
77 estimated useful lives of all of the assets that make up the
78 reserve pool, based on the current reserve analysis. The
79 projected annual cash inflows may include estimated earnings

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

80 from investment of principal. The reserve funding formula shall
81 not include any type of balloon payments.

82 (d) Reserve funds and any interest accruing thereon shall
83 remain in the reserve account or accounts, and shall be used
84 only for authorized reserve expenditures unless their use for
85 other purposes is approved in advance by a majority vote at a
86 duly called meeting of the association. Prior to turnover of
87 control of an association by a developer to unit owners, the
88 developer-controlled association shall not vote to use reserves
89 for purposes other than that for which they were intended
90 without the approval of a majority of all non-developer voting
91 interests, voting in person or by limited proxy at a duly called
92 meeting of the association.

93
94
95 ===== D I R E C T O R Y A M E N D M E N T =====

96 Remove line 244 and insert:

97 Section 4. Subsections (2), (6) and (7) of section
98 720.303,
99

100 ===== T I T L E A M E N D M E N T =====

101 Remove line 37 and insert:

102 liability for providing such information; revising what must be
103 included in an association's annual budget; revising when

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

Bill No. HB 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A / 3
W/O

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Domino offered the following:

Amendment (with title amendments)

Insert between line(s) 481-482 and insert:

Section 7. Paragraph (t) is added to subsection (3) of
section 720.307, Florida Statutes, to read:

(3) At the time the members are entitled to elect at least
a majority of the board of directors of the homeowners'
association, the developer shall, at the developer's expense,
within no more than 90 days deliver the following documents to
the board:

(t) The financial records, including financial statements
of the association, and source documents from the incorporation
of the association through the date of turnover. The records
shall be audited by an independent certified public accountant
for the period from the incorporation of the association or from
the period covered by the last audit, if an audit has been
performed for each fiscal year since incorporation. All
financial statements shall be prepared in accordance with
generally accepted accounting principles and shall be audited in

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

22 accordance with generally accepted auditing standards, as
23 prescribed by the Florida Board of Accountancy, pursuant to
24 chapter 473. The certified public accountant performing the
25 audit shall examine to the extent necessary supporting documents
26 and records, including the cash disbursements and related paid
27 invoices to determine if expenditures were for association
28 purposes and the billings, cash receipts, and related records to
29 determine that the developer was charged and paid the proper
30 amounts of assessments.

31
32
33 ===== T I T L E A M E N D M E N T =====

34 Remove line 47 and insert:
35 membership meetings; amending s. 720.307, F.S.; providing
36 additional documents that the developer must deliver at the time
37 the association members elect the board of directors; amending
38 720.311, F.S.; revising

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

Bill No. HB 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A / 4
W/O

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Domino offered the following:

Amendment (with title amendments)

Insert between line(s) 481-482:

Section 7. Section 720.308, Florida Statutes, is amended
to read:

720.308 Assessments and charges.--

(1) ASSESSMENTS.--For any community created after October
1, 1995, the governing documents must describe the manner in
which expenses are shared and specify the member's proportional
share thereof. Assessments levied pursuant to the annual budget
or special assessment must be in the member's proportional share
of expenses as described in the governing document, which share
may be different among classes of parcels based upon the state
of development thereof, levels of services received by the
applicable members, or other relevant factors. While the
developer is in control of the homeowners' association, it may
be excused from payment of its share of the operating expenses
and assessments related to its parcels for any period of time
for which the developer has, in the declaration, obligated

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

itself to pay any operating expenses incurred that exceed the assessments receivable from other members and other income of the association. This section does not apply to an association, no matter when created, if the association is created in a community that is included in an effective development-of-regional-impact development order as of the effective date of this act, together with any approved modifications thereto.

(2) GUARANTEES OF COMMON EXPENSES--

(a) Establishment of the guarantee.-- If a guarantee is not included in the purchase contracts, declaration, or prospectus, any agreement establishing a guarantee shall be effective only upon the approval of a majority of the voting interests of the members other than the developer. Approval shall be expressed at a meeting of the members, voting in person or by limited proxy; or by agreement in writing without a meeting if provided in the bylaws. Such guarantee shall meet the requirements of this section.

1. Guarantee period.-- The period of time for the guarantee shall be indicated by a specific beginning and ending date or event.

a. The ending date or event shall be the same for all of the members of a homeowners' association, including members in different phases of homeowners' associations.

b. The guarantee may provide for different intervals of time during a guarantee period with different dollar amounts for each such interval.

c. The guarantee may provide that after the initial stated period, the developer has an option to extend the guarantee for one or more additional stated periods. The extension of a guarantee is limited to extending the ending date or event;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

therefore, the developer does not have the option of changing the level of assessments guaranteed.

(3) MAXIMUM LEVEL OF ASSESSMENTS.-- The stated dollar amount of the guarantee shall be an exact dollar amount for each parcel identified in the declaration. Regardless of the stated dollar amount of the guarantee, assessments charged to a member shall not exceed the maximum obligation of the member based on the total amount of the adopted budget and the member's proportionate ownership share of the common elements.

(4) CASH FUNDING REQUIREMENTS DURING THE GUARANTEE.-- The cash payments required from the guarantor during the guarantee period shall be determined as follows:

(a) If at any time during the guarantee period the funds collected from member assessments at the guaranteed level and other revenues collected by the association are not sufficient to provide payment, on a timely basis, of all common expenses, including the full funding of the reserves unless properly waived, the guarantor shall advance sufficient cash to the association at the time such payments are due; and

(b) Expenses incurred in the production of non-assessment revenues, not in excess of the non-assessment revenues, shall not be included in the common expenses. If the expenses attributable to non-assessment revenues exceed non-assessment revenues only the excess expenses must be funded by the guarantor. For example, if the association operates a rental program in which rental expenses exceed rental revenues the guarantor shall fund the rental expenses in excess of the rental revenues. Interest earned on the investment of association funds may be used to pay the income tax expense incurred as a result of the investment, such expense shall not be charged to the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

guarantor, and the net investment income shall be retained by the association. Each such non-assessment revenue generating activity shall be considered separately. Capital contributions collected from members are not revenues, and shall not be used to pay common expenses.

(5) CALCULATION OF GUARANTOR'S FINAL OBLIGATION.-- The guarantor's total financial obligation to the association at the end of the guarantee period shall be determined on the accrual basis using the following formula:

(a) The guarantor shall fund the total common expenses incurred during the guarantee period, including the full funding of the reserves unless properly waived; less

(b) The total regular periodic assessments earned by the association from the members other than the guarantor during the guarantee period regardless of whether the actual level charged was less than the maximum guaranteed amount.

(6) EXPENSES.--Expenses incurred in the production of non-assessment revenues, not in excess of the non-assessment revenues, shall not be included in the common expenses. If the expenses attributable to non-assessment revenues exceed non-assessment revenues only the excess expenses must be funded by the guarantor. For example, if the association operates a rental program in which rental expenses exceed rental revenues the guarantor shall fund the rental expenses in excess of the rental revenues. Interest earned on the investment of association funds may be used to pay the income tax expense incurred as a result of the investment, such expense shall not be charged to the guarantor, and the net investment income shall be retained by the association. Each such non-assessment revenue generating activity shall be considered separately. Capital contributions

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

collected from members are not revenues, and shall not be used
to pay common expenses.

===== T I T L E A M E N D M E N T =====

Remove line 47 and insert:

membership meetings; amending s. 720.308, F.S.; providing for
the establishment of guarantees of common expenses shared by the
association members; amending s.720.311, F.S.; revising

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 5 (for drafter's use only)

Bill No. HB 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A / w/o 5

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Adams offered the following:

Amendment (with directory and title amendments)

Between lines 450-451, insert:

Section 6. Subsection (1) of section 720.305, Florida
Statutes, is amended to read:

720.305 Obligations of members; remedies at law or in
equity; levy of fines and suspension of use rights; failure to
fill sufficient number of vacancies on board of directors to
constitute a quorum; appointment of receiver upon petition of
any member.--

(1) Each member and the member's tenants, guests, and
invitees, and each association, are governed by, and must comply
with, this chapter, the governing documents of the community,
and the rules of the association. Actions at law or in equity,
or both, to redress alleged failure or refusal to comply with
these provisions may be brought by the association or by any
member against:

(a) The association;

(b) A member;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 5 (for drafter's use only)

(c) Any director or officer of an association who willfully and knowingly fails to comply with these provisions; and

(d) Any tenants, guests, or invitees occupying a parcel or using the common areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. A member prevailing in an action between the association and the member under this section, in addition to recovering his or her reasonable attorney's fees, may recover additional amounts as determined by the court to be necessary to reimburse the member for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. This section does not deprive any person of any other available right or remedy.

===== T I T L E A M E N D M E N T =====

Remove line(s) 41 and insert:
versions of that subsection; amending s. 720.305, F.S.;
providing that, where a member is entitled to collect attorney's fees against the association, the member entitled to fees may not be assessed a pro rata share of such fees; amending s. 720.306, F.S.;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 6 (for drafter's use only)

Bill No. HB 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

W/D b

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Adams offered the following:

Amendment (with directory and title amendments)

Between lines 450-451, insert:

Section 6. Subsection (5) is added to section 720.305,
Florida Statutes, to read:

720.305 Obligations of members; remedies at law or in
equity; levy of fines and suspension of use rights; failure to
fill sufficient number of vacancies on board of directors to
constitute a quorum; appointment of receiver upon petition of
any member.--

(5) No association may sue to foreclose a lien against
real property during any period of time that the member of the
association who owes the money giving rise to the lien is also
entitled to the homestead protection defined in art. X, s.
4(a)(1) as to that parcel of real property. This subsection
does not prevent the filing of a lien against the real property,
nor does this subsection bar the filing of an action against a
subsequent purchaser of the real property regardless of whether
the definition of homestead may be applicable to such subsequent

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 6 (for drafter's use only)

purchaser. Any applicable statute of limitations, whether
applicable to an in rem foreclosure action or applicable to an
in personam action against the member, shall be tolled during
any period of time that the association is barred from filing or
prosecuting a foreclosure action by this subsection.

===== T I T L E A M E N D M E N T =====

Remove line(s) 41 and insert:

versions of that subsection; amending s. 720.305, F.S.;

prohibiting an association from filing a foreclosure action

against homestead property; providing exceptions; tolling

applicable limitation periods; amending s. 720.306, F.S.;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 7 (for drafter's use only)

Bill No. 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A / w/o 7

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Domino offered the following:

Amendment (with directory and title amendments)

Insert between line(s) 228 and 229:

Section 3. Subsections (1) and (2) of section 718.404,
Florida Statutes, is amended to read:

718.404 Mixed-use condominiums .-- When a condominium
consists of both residential and commercial units, the following
provisions shall apply:

(1) The condominium documents shall not provide that the
owner of any commercial unit shall have the authority to veto
amendments to the declaration, articles of incorporation,
bylaws, or rules or regulations of the association. It is
intended that this subsection apply retroactively as a remedial
measure.

(2) Subject to s. 718.301, where the number of residential
units in the condominium equals or exceeds 50 percent of the
total units operated by the association, owners of the
residential units shall be entitled to vote for a majority of

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 7 (for drafter's use only)

the seats on the board of administration. It is intended that
this subsection apply retroactively as a remedial measure.

===== D I R E C T O R Y A M E N D M E N T =====

Remove line(s) and insert:

===== T I T L E A M E N D M E N T =====

Remove line 26 and insert:

and attorney's fees; amending s. 718.404, F.S.; providing
retroactive application; amending s. 720.302, F.S.; revising

000000



Committee on

Civil Justice

Action

Date

1/25/2006

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY

(may be used in Committee, but not on House Floor)

Amendment No.

8

Bill No.

HB 391

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

If amendment is text of another bill insert:

Bill No. _____

Draft No. _____

Representative(s)/The Committee on

Domino

offered the following amendment:

Amendment

on page

Delete

, line

s 831-847

A/w/o

TITLE

Remove lines 70-73, and insert:

of alternative dispute resolution
techniques; providing effective dates.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 8 (for drafter's use only)

Bill No. 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

8
A / w/o

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Domino offered the following:

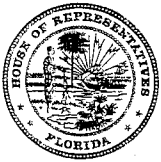
Amendment (with title amendments)

Remove line(s) 831-847 and insert:

===== T I T L E A M E N D M E N T =====

Remove line(s) 70-73 and insert:

of alternative dispute resolution techniques; providing
effective dates.



Committee on

Civil Justice

Action

Date

1/25/2006

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY

(may be used in Committee, but not on House Floor)

Amendment No.

9

Bill No.

HB 391

(For filing with the Clerk, Committee and Member Amendments must be prepared on computer)

If amendment is text of another bill insert:

Bill No.

Draft No.

Representative(s) ~~The Committee on~~

Domino

A/w/o

offered the following amendment:

Amendment

on page ~~Delete~~, line ~~239~~, and insert:

~~not for profit~~ that operates residential homeowners' associations

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 9 (for drafter's use only)

Bill No. 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

9
A/w/o

Council/Committee hearing bill: Civil Justice Committee

Representative(s) Domino offered the following:

Amendment

Remove line 239 and insert:

~~not for profit~~ that operate residential homeowners' associations



Committee on

Civil Justice

Action

Date

1/25/2006

HOUSE AMENDMENT FOR DRAFTING PURPOSES ONLY

(may be used in Committee, but not on House Floor)

Amendment No. 10

Bill No. HB 391

(For filing with the Clerk, Committee and Member Amendments **must** be prepared on computer)

If amendment is text of another bill insert:

Bill No. _____

Draft No. _____

A/w/o

Representative(s)/The Committee on Domino

offered the following amendment:

Amendment

on page Delete, line 289, and insert:

communities with more than 100
parcels ~~members~~, the bylaws may
provide

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 10 (for drafter's use only)

Bill No. 0391

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

10
A / w/o

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Domino offered the following:

Amendment

Remove line 289 and insert:
communities with more than 100 parcels ~~members~~, the bylaws may
provide

COMMITTEE MEETING REPORT

Civil Justice Committee

1/25/2006 9:30:00AM

Location: 24 HOB

HB 543 : Condominiums

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Dean Cannon			X		
Marti Coley	X				
Carl Domino	X				
Arthenia Joyner	X				
Irving Slosberg	X				
John Stargel	X				
Mark Mahon (Chair)	X				
Total Yeas: 6		Total Nays: 0			

Appearances:

Condominiums

Peter Dunbar (Lobbyist) - Proponent

Real Property, Probate & Trust Law Section

215 S. Monroe St.

Tallahassee FL 32301

Phone: 850-222-3533

Condominiums

Cynthia Henderson (Lobbyist) - Proponent

Casto LP

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. HB 543

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A w/o 1

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Goodlette offered the following:

Amendment

Insert at line 186 :
for repair or reconstruction at the time of termination. Unless
the declaration expressly

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **HB 543**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

A w/o 2

Council/Committee hearing bill: Civil Justice Committee
Representative(s) Goodlette offered the following:

Amendment

Insert at line(s) 216 :
by the unit owners approving the plan of termination by any of
the following methods:

COMMITTEE MEETING REPORT

Civil Justice Committee

1/25/2006 9:30:00AM

Location: 24 HOB

Summary:

Civil Justice Committee

Wednesday January 25, 2006 09:30 am

HB 191	Favorable With Committee Substitute	Yeas: 6	Nays: 0
HB 193	Favorable	Yeas: 6	Nays: 0
HB 221	Favorable	Yeas: 6	Nays: 0
HB 391	Favorable With Committee Substitute	Yeas: 6	Nays: 0
HB 543	Favorable With Committee Substitute	Yeas: 6	Nays: 0